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Part: III - Institutional Operations Section: E - Inmate Rights		Related Pennsylvania Minimum Standards: Title 37 Pa Code 95 Related ACA Standards: 4-ALDF-2A-27, 4-ALDF-6B-012-CO-1C-02 Related NCCHC Standards: J-A-11			
Subject: Inmate Grievance Procedures		Supersedes: Policy 3.F.10 signed on June 29, 2005			
Approved: <u>J. Gil</u> Commissioner	Signature Date: February 11, 2014				
Effective Date: March 11, 2014	Scheduled PAD Review: Annually Scheduled Commissioner's Review: February 11, 2018				

Purpose

The purpose of this policy is to update and formalize procedures for the equitable and prompt resolution of grievances submitted by inmates in the Philadelphia Prison System (PPS).

Policy

It is the policy of the PPS to provide inmates an internal grievance procedure for administrative resolution of complaints arising from a facility's administration or operation. The grievance procedure will serve to reduce the need for litigation and afford staff the opportunity to review and correct, if necessary, the PPS' operations.

Definition of Terms

Grievance: A written complaint by an inmate on the inmate's own behalf regarding a policy application within a PPS facility, a condition within a PPS facility, an action involving an inmate in a PPS facility, or an incident occurring within a PPS facility.

Informal Grievance: A grievance communicated by an inmate through face-to-face or similar communication and therefore is not a formal grievance.

Informal Resolution: A grievance resolved through face-to-face communication or note or letter and therefore would not have to be resolved by means of a formal written grievance response.

Formal Grievance: A grievance that has passed through the informal grievance procedure without being resolved through informal means or a grievance that an inmate initiates in writing through the formal grievance procedure. A written grievance will be considered confidential. Disclosure of grievance records will be done only upon authorization of the Commissioner.

Medical Grievance: A grievance concerning any aspect of the delivery, non-delivery, or quality of medical services to an inmate.

Revised

February 11, 2014

Revised

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Emergency Grievance: A grievance processed by expedited methods to resolve an issue that presents one or a combination of the following:

- a threat of death or injury;
- disruption of the facility; or
- endangers the physical health or safety of the inmate, staff, or others; or a situation which includes health preserving medication or treatment if the medication or treatment, or lack of it, presents an imminent threat to life or health or that has become an emergency because the time is lapsing when meaningful action or decision is possible.

Standard Grievance: Any grievance formal, or informal, which is not a Medical Grievance or an Emergency Grievance.

Reprisal: Any action or threat of action against an inmate for the use of, or participation in, the grievance procedure. Use of, or participation in, the grievance procedure will not result in any form of reprisal, and an inmate shall be entitled to pursue, through the grievance procedure, a complaint that a reprisal occurred.

Grievable and Non-Grievable Issues

A grievance may be initiated by an inmate concerning the following issues:

- an alleged violation of an inmate's civil, constitutional, or statutory rights;
- a condition existing within the PPS that creates unsafe or unsanitary living conditions;
- the circumstances or application of any written or unwritten policy, regulation, or rule of the PPS, including its programs;
- the lack of a policy, regulation, or rule;
- an alleged criminal or prohibited act by a staff member, contract personnel, volunteer, or other inmate(s);
- any written or unwritten policy, regulation, or rule of the PPS, including its programs;
- accuracy of information in the inmate's file, including the calculation of the inmate's release date;
- the circumstances or application of any provision of any court orders under which the PPS must operate;
- medical diagnosis or treatment, including the quality of treatment;
- housing/assignment to a temporary bed after 55 days; and,
- classification and reclassification decisions.

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No grievance may be lodged concerning the findings of a Disciplinary Hearing, since there is a separate process for appealing decisions regarding inmate discipline. (refer to PPS Policies and Procedures 3.C.1, Inmate Discipline and 3.C.2, Prohibited Acts).

No grievance may be lodged concerning a loss or damage of personal clothing or property. There is a separate process for filing property or clothing claims for damage or lost property (refer to PPS Policy and Procedure 1.A.14, Inmate Property Claims).

No grievance may be filed concerning matters that are controlled or governed by local, state, or federal laws, decisions of paroling authorities, or other matters beyond the control of the PPS.

Procedural Overview

The inmate grievance procedure is an internal administrative means for resolving complaints and identifying potentially problematic management areas. The Warden of each facility is responsible for seeing that grievance procedures are properly administered. The Deputy Warden for Administration is responsible for the daily implementation, record keeping, and oversight of the Grievance Procedures.

Expiration of a time limit at any stage of the process shall entitle the grievant to move to the next level of the process, unless the grievant has agreed in writing to an extension of the time for a response.

The grievant shall have a right of appeal at every level of authority, until a grievance reaches the Commissioner of the PPS, whose decision is final.

An inmate may file a grievance only for himself/herself, although an inmate may assist another inmate in filing a grievance. The grievance procedure will not, however, be used as a petition or as a "class action" device. An inmate may file multiple grievances, each on a different issue/problem, but only one issue/problem per grievance. Single-issue grievances permit easier targeting of the appropriate staff to respond.

At the discretion of the Deputy Warden for Administration, inmates' grievances may be considered as a group when based on shared issues or problems. The grievances would be filed separately, and then considered as a group, if group consideration is deemed appropriate.

If an inmate is released from PPS custody, he/she loses all standing to any internal administrative remedy under consideration.

If an inmate is transferred to another facility of the PPS, his/her grievance will remain eligible for an internal administrative remedy proposed by the sending facility.

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Staff and Inmate Participation

The Warden or designee will solicit comments and suggestions from staff and the inmate population on a least an annual basis to promote effectiveness, efficiency, and fairness of the grievance process. The Warden or Deputy Warden for Administration may submit these comments or suggestions as part of the scheduled review for the Inmate Grievance Procedures policy.

Complete copies of the Inmate Grievance Procedures in English and Spanish will be posted in all housing units, inmate Law Libraries, and Restorative and Transitional Services areas.

Inmate Access to the Grievance Process

During his/her stay in Admissions housing, the inmate will be given the Inmate Handbook (in English or Spanish), which details the entire grievance process. Orientation will include an explanation of the grievance procedures and will allow for questions and answers.

If the inmate requires explanation in another language, is hearing impaired, sight impaired, or has a handicap which would impede understanding the grievance process, he/she will be referred to his/her Social Services Case Manager, who will arrange for the services of an appropriate interpreter.

The inmate may also seek the aid of other inmates, Law Library workers, or inmate representatives in filling out the form.

Inmates will be encouraged to attempt to resolve their grievances informally with staff with whom they come in contact before filing a written grievance. It is required of both staff and inmates that the informal process be exhausted before the formal procedures are initiated. If an inmate voices a grievance to a staff member that is beyond the scope of that employee's authority and appears to require prompt attention, that staff member will notify his/her immediate supervisor about the grievance as soon as practical. Once the supervisor is informed of the inmates' grievance, he/she will attempt to resolve the issue.

Inmate grievance forms will be readily accessible in the housing units, Law Libraries and through Restorative and Transitional Services regardless of an inmate's legal, disciplinary, or administrative status.

No staff member may impede an inmate's filing of a grievance nor retaliate against an inmate filing or withdrawing a grievance. Use of, or participation in, the grievance procedure will not result in any form of reprisal and an inmate shall be entitled to pursue through the grievance procedure a complaint that a reprisal occurred.

If there are no forms available, a grievance written out on a plain sheet of paper will be accepted if all the required information is present.

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Procedures for Standard, Medical, or Emergency Inmate Grievances

There are three types of inmate grievances that can be filed:

- Standard;
- Medical;
- Emergency.

Standard Grievances

Procedures for Filing and Processing Standard Grievances

An inmate may file a formal, written grievance within ten days of the grievable event by completing an Inmate Grievance Form (refer to attachment 3.F.10.a).

Completing the Inmate Grievance Form

The Inmate Grievance Form requires the following information:

- inmate's name;
- inmate's facility;
- inmate's intake number;
- inmate's police photo number;
- inmate's housing unit;
- an indication that the grievance is a medical grievance;
- date and time of the grievable incident or event;
- description of the grievance, incident or problem;
- describe how and when the inmate tried to resolve the grievance informally;
- description of the action requested by the inmate; and
- inmate's signature and date of submission.

The Inmate Grievance Form includes a detail section that is completed by the inmate. A statement is made by the inmate as to when, how, with whom and with what result the inmate has attempted to resolve the issue informally that is now being grieved.

On a single incident or item of concern, an inmate may file only one grievance at any one time. An inmate may withdraw a previously filed grievance at any time by requesting the grievance be returned and an entry made in the resolution section that the grievance was returned at the inmate's request with no action taken.

If an inmate needs more writing space to fill out the description of the grievance, an Inmate Grievance Continuation Page (refer to attachment 3.F.10.b) will be available.

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The inmate will fill out the form, attesting that the informal process has occurred, retain the bottom copy as his/her receipt of filing, and file the rest of the form in the appropriate grievance box.

If an inmate believes that he/she is being denied access to the grievance process (e.g. inmate grievance forms are not available at the facility), the inmate may forward his/her grievance directly to the Commissioner. The Commissioner or designee will ensure that the grievance is received and filed by the appropriate Deputy Warden.

Using the Grievance Box

Inmate grievances will be placed in grievance boxes convenient and accessible to all inmates in each facility.

In facilities with unit management, each unit manager will be responsible for emptying the grievance box and delivering the grievances to the Deputy Warden for Administration every weekday by 12:00 p.m. In facilities where unit management is not yet established, the Deputy Warden for Administration or designated supervisor will empty the grievance boxes every weekday by 12:00 p.m. On weekends, grievances will be delivered to the Shift Commander, who will review them for any emergency matters and ensure that they are delivered to the Deputy Warden by 12:00 p.m. on Monday.

Review Level I

After the Deputy Warden for Administration logs in the grievance, he/she will review the grievance and make one of three decisions:

1) Reject the grievance and return it to the inmate

The Deputy Warden may return to an inmate his/her grievance within fourteen (14) days of its receipt, if the grievance concerns a non-grievable issue, appears frivolous, or is otherwise inconsistent with Inmate Grievance Procedures. A notation explaining the return must be made in the Proposed Resolution area of the Standard Grievance Form after which the form or copy is returned to the inmate.

2) Attempt to resolve the grievance him/herself

When appropriate, the Deputy Warden for Administration may resolve the grievances himself/herself, if possible, within fourteen days (14) and then log the grievance as resolved.

3) Distribute to appropriate staff to resolve

If the grievance concerns a medical issue, a copy of each medical grievance will be delivered to the HSA on the day it is received. Procedures involving the response to medical grievances are detailed further in this policy. In other cases, if he/she feels necessary, the Deputy Warden for Administration will distribute the grievance to the appropriate staff that may either attempt to successfully resolve the grievance himself/herself or return the grievance to the Deputy Warden for Administration with an explanation if he/she is unable to come to a resolution. The staff

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member must forward the grievance form with the proposed resolution to the Deputy Warden for Administration within thirty (30) days of receiving the grievance.

If the Deputy Warden for Administration is satisfied with a recommended resolution/action, he/she will forward the Finding of Inmate Grievance (refer to attachment 3.F.10.c) to the Warden for review.

Warden's Review

The Warden will review the recommended action of the Deputy Warden and approve, deny, or modify the Deputy Warden's recommended action within fourteen (14) days of receipt of the decision of the Deputy Warden by noting his or her decision (along with the reasons in the case of a denial or modification) on the Finding of Inmate Grievance Form and shall forward signed copies to the inmate.

The Warden shall be bound by the factual findings of the Deputy Warden unless clearly erroneous. The Warden may reject the recommended action only if:

- implementation would be contrary to law;
- the recommendation is contrary to the rules, regulations, or policies of the PPS;
- implementation is not fiscally feasible;
- the recommendation would create a new right for the inmates;
- implementation would endanger public and/or a facility's security; and
- the recommendation goes beyond the scope of issues presented in the case; or
- the recommendation is not appropriate to the facts of the grievance.

In any case in which the Warden concludes that the recommended action of the Deputy Warden is not appropriate to the facts of the grievance, the Warden may modify the recommended action (refer to attachment 3.F.10.c).

If an inmate is unsatisfied with the Warden's decision, the inmate has five (5) days after receipt of the Finding of Inmate Grievance to appeal to the Commissioner, (refer to attachment 3.F.10.d) thereby advancing to Level II. The inmate should include copies of the grievance filed, the Finding of Inmate Grievance, and appeal form.

Review Level II

Commissioner's Review

Upon notification that the inmate is unsatisfied with the Warden's decision, the Commissioner is responsible for final review. The Commissioner or designee will have twenty-one (21) days to make a final determination on the appeal and reply to the inmate. The reply will be in writing, and the inmate will sign to indicate he /she has received notification of the appeal decision.

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The Commissioner or designee shall be bound by the factual findings of the Warden unless the findings of the Warden are not supported by the facts within the record before the Commissioner. The Commissioner or designee may reject the recommended action only if:

- implementation would be contrary to law;
- implementation is not fiscally feasible;
- the recommendation would create a new right for the inmates;
- implementation would endanger public and/or a facility's security; and
- the recommendation goes beyond the scope of issues presented in the case; or
- the recommendation is not appropriate to the facts of the grievance.

The Commissioner shall be bound by the rules, regulations, or policies of the PPS unless the Commissioner decides to revise the policy.

Medical Grievances

If a grievance is designated a Medical Grievance or clearly concerns any aspect of the delivery or non-delivery of medical services to an inmate, a copy of the grievance will be delivered to the HSA on the day it is received. The HSA will have the inmate seen immediately to rule out or treat critical health issues.

In addition to having the inmate seen, the HSA will log, investigate, and return the grievance with resolution to the Deputy Warden for Administration within fourteen (14) days of its receipt by medical staff. The inmate will be personally interviewed and the medical record will be reviewed. Grievances from those inmates out of custody will have a chart review, evaluation, and then will be returned to the Deputy Warden for Administration with a response. A response stating that the inmate was seen upon receipt of a grievance is not adequate by itself. The HSA must investigate the validity of the grievance and report findings and actions to the Deputy Warden for Administration within 14 days of receipt of the grievance.

If an HSA cannot resolve the grievance within fourteen (14) days, he/she will notify the Deputy Warden for Administration in writing of the inability to resolve the grievance and will then forward the medical grievance to the Regional Medical Director (RMD) or the Regional Behavioral Health Director (RBHD).

The facility's HSA will provide the RMD or the RBHD with all necessary documentation, including the names of all of the medical personnel who were involved in the incident and/or complaint.

The RMD or the RBHD will address the grievant and try to resolve any medical/behavioral health issues. The RMD or the RBHD will notify the Warden and the Deputy Warden for Administration of the resolution or non-resolution of the grievance within fourteen (14) days.

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If the RMD or the RBHD has not resolved the grievance, the Warden will refer the grievance to the Commissioner for appropriate action.

All grievances and final resolution summaries will be filed in the inmate's medical record.

The Deputy Warden for Administration will be required to submit a Monthly Medical Grievance Tracking Report (refer to attachment 3.F.10.e) from the previous month of medical grievances.

The Monthly Medical Grievance Tracking Report (MMGTR) contains nine columns that must be filled out completely for each medical grievance. The MMGTR consist of the following categories:

- date of incident;
- inmate's name;
- PID number;
- date filed by inmate;
- date received by Deputy Warden;
- nature of medical grievance;
- date of initial contact made by Deputy Warden;
- date of subsequent action;
- final resolution.

The MMGTR is due on the first Wednesday of the month via e-mail to the following PPS staff:

- Chief of Medical Operations;
- Chief Counsel;
- Warden;
- Executive Assistant to the Chief of Medical Operations.

Grievances Concerning Housing/Assignment to Temporary Beds

Any inmate assigned to a temporary bed may file a grievance after 55 continuous days of assignment to that bed. Once the grievance is received, the Deputy Warden for Administration will respond by researching to see if the inmate has, indeed, been assigned to the bed for a period of 55 continuous days. If the inmate has been so housed, the Deputy Warden for Administration will immediately arrange for the inmate to be transferred to a cell containing only permanent beds. The response to the inmate will be made in the same manner as grievances concerning any other manner, except that the response will be completed within 5 days.

Emergency Grievances

An emergency grievance may be filed by writing a description of the incident, problem or complaint in the Report of Emergency Grievance (refer to attachment 3.F.10.f). If the Unit Manager or Shift Commander determines the grievance is an emergency matter, it will be given immediate attention.

Revised

February 11, 2014

Revised

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Emergency grievances that cannot be resolved at the shift level will be channeled, without delay, through the chain of command until reaching a level where action can be taken.

If, after consideration, the Unit Manager or Shift Commander determines the matter is not an emergency issue, the Unit Manager or Shift Commander will advise the inmate that the issue is not an emergency and may be re-submitted as a standard grievance.

The Unit Manager or Shift Commander will forward copies of the completed Report of Emergency Grievance to the Warden and Deputy Warden for Administration.

Any inmate who is not satisfied with the decision of his/her grievance may file an Inmate Grievance Appeal form (refer to attachment 3.F.10.d).

Records and Information Management

The Deputy Warden for Administration will enter all grievances (Standard, Medical and Emergency) filed by inmates assigned to the facility in the Integrated Jail Management System (IJMS), inmate management grievance desktop. The inmate management grievance desktop is used to record all incoming grievances and to monitor the status of all grievances, keep them on schedule, and to generate reports, as needed. The inmate management grievance desktop will index grievances by facility, date, person filing, subject, and status or disposition.

At the beginning of each month, a copy of the IJMS inmate management grievance desktop log will be forwarded to the Commissioner's office, who will maintain an aggregated monthly log of grievances filed under this procedure in all facilities.

The IJMS inmate management grievance desktop will be part of a system-wide computerized tracking program used to monitor the status of all grievances, keeping them on schedule, and to generate reports.

The following subject categories are available in the IJMS inmate management grievance desktop to describe complaints (one per complaint):

- clothing;
- commissary;
- complaint - inmate;
- complaint - staff;
- custody – status;
- food;
- inmate - accounts;
- inmate - services;

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- legal;
- mail;
- maintenance;
- medical;
- other;
- phone;
- program – assignment;
- property – damaged;
- property – destroyed;
- property – lost;
- reprisal;
- sanitation;
- segregation;
- visit.

If more than one category is raised, the subject that best describes the principle complaint will be used. The Deputy Warden for Administration will generate a monthly summary report of all grievances filed for each month. The Warden and Commissioner's office will review each monthly summary report of all grievances to ascertain patterns of problem areas in the facility and to facilitate intervention in those areas.

All records relating to inmate grievances will be maintained by the Deputy Warden for Administration of the facility to which the inmate is assigned until disposition of the grievance. Such records will be preserved for at least three years following final disposition of the grievance. Ultimately, such records will be archived according to the City's Record Retention Schedule.

All written grievances will be considered confidential. Disclosure of grievance records will be done only upon authorization by the Commissioner.